

Customer No. 26308

PATENT

Docket No. 1759.15100-DIV DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Scribner et al.  
Serial No: 10/617,976  
Filed: 11 July 2003  
For: Systems and Methods for Placing Materials into Bone

Group Art Unit: 3733  
Examiner: P. Philogene

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT BEFORE MAILING DATE  
OF EITHER A FINAL ACTION OR NOTICE OF ALLOWANCE (37 CFR 1.97(c))

- NOTE: "An information disclosure statement shall be considered by the Office if filed ... before the mailing date of either (1) a final action under S 1.113 or (2) a notice of allowance under S 1.311, whichever occurs first, provided the statement is accompanied by either a certification as specified in paragraph (e) of this section or the fee set forth in S 1.17(p)." 37 CFR 1.97(c).
- NOTE: "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE: "If information submitted during the period set forth in 37 CFR 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, [i]f the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 CFR 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- WARNING: "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION  
DISCLOSURE STATEMENT

- The information disclosure statement transmitted herewith is being filed AFTER THREE MONTHS OF THE FILING DATE OF THIS NATIONAL APPLICATION OR THE DATE OF ENTRY OF THE NATIONAL STAGE AS SET FORTH IN S 1.491 IN AN INTERNATIONAL APPLICATION OR AFTER THE MAILING DATE OF THE FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURRED LAST BUT BEFORE THE MAILING DATE OF EITHER:
  - a final action under § 1.113 or
  - a notice of allowance under § 1.311, whichever occurs first.

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, with sufficient postage, in an envelope addressed as follows: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on 21 June 2006

06/26/2006 MAHMED1 00000032 10617976

02 FC:1806

180.00 OP

Signature of Person Signing

Linda S. Wenzel

Type or Print Name of Person Signing

**CERTIFICATION OR FEE**

2. Accompanying this transmittal is  
(check either A or B below)  
A. ☐ a certification as specified in 37 CFR 1.97(e)  
OR  
B. ☒ the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c). (\$180.00).

**FEE PAYMENT**

(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c) (\$180.00).

Fee due \$ 180.00

**METHOD OF PAYMENT OF FEE**

4. ☒ Attached is check in the amount of \$ 180.00  
☐ Charge Account No.      in the amount of \$                       
A duplicate of this request is attached.

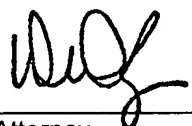
The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima face* prior art reference against the claims of the present application.


If any additional fees are due, please charge Account No. 06-2360.

Reg. No. 29,243

Telephone No.: (262) 783 - 1300

Customer No. 26308

  
\_\_\_\_\_  
Signature of Attorney  
Daniel D. Ryan  
\_\_\_\_\_  
Type or Print Name of Attorney of Record  
**RYAN KROMHOLZ & MANION, S.C.**  
**Post Office Box 26618**  
**Milwaukee, Wisconsin 53226-0618**  
\_\_\_\_\_  
Mailing Address of Sender

<b>LIST OF PRIOR ART CITED BY APPLICANT</b> <i>(Use several sheets if necessary)</i>  	<b>ATTY DOCKET NO.</b> 1759.15100-DIV DIV	<b>SERIAL NO.</b> 10/617,976
	<b>APPLICANT</b> Scribner et al.	
	<b>FILING DATE</b> 11 July 2003	<b>GROUP</b> 3733

CUSTOMER NO. 26308

### U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	3,606,086	09/1971	Drummond et al.			
	4,086,914	05/1978	Moore			
	4,232,670	11/1980	Richter et al.			
	4,277,184	07/1981	Solomon			
	4,323,071	04/1982	Simpson et al.			
	4,576,152	03/1986	Muller et al.			
	D283,840	05/1986	Matsutani			
	4,653,487	03/1987	Maale			
	4,969,888	11/1990	Scholten et al.			
	5,310,407	05/1994	Casale			
	5,385,566	01/1995	Ullmark			

### FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No
	WO 96/39970	12/1996	PCT			
	WO 98/56301	12/1998	PCT			
	WO 99/49819	10/1999	PCT			
	WO 99/51149	10/1999	PCT			
	WO 99/62416	12/1999	PCT			
	WO 00/54705	09/2000	PCT			
	WO 00/67650	11/2000	PCT			

### OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

			Smith + Nephew, "Acufex MosaicPlasty - A Lasting solution in the repair of cartilaginous defects," catalog, 1997, Smith + Nephew, Andover, Massachusetts, USA

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through and not considered. Include copy of this of with next communication to applicant.

<b>LIST OF PRIOR ART CITED BY APPLICANT</b> <i>(Use several sheets if necessary)</i>	<b>ATTY DOCKET NO.</b> 1759.15100-DIV DIV	<b>SERIAL NO.</b> 10/617,976
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### U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,419,765	05/1995	Weldon et al.			
	5,827,236	10/1998	Takahashi			
	5,827,236	10/1998	Reiley et al.			
	6,017,348	01/2000	Hart et al.			
	6,146,358	11/2000	Rowe			
	6,146,385	11/2000	Torrie et al.			
	6,235,043	05/2001	Reiley et al.			
	6,241,734	06/2001	Scribner et al.			
	6,348,055	02/2002	Preissman			
	6,607,544	08/2003	Boucher et al.			
	6,613,054	09/2003	Scribner et al.			

### FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No
		WO 01/28439	04/2001	PCT			
		EP 0 890 341	01/1999	EP			

### OTHER PRIOR ART *(Including Author, Title, Date, Pertinent Pages, Etc.)*

			Gangi, Afshin, "Percutaneous Vertebroplasty Guided by a Combination of CT and Fluoroscopy," Article, Jan. 1994, American Society of Neuroradiology, USA
			Deramond, H., "Percutaneous Vertebroplasty," Article, June 1997, Seminars in Musculoskeletal Radiology, Volume 1, Number 2, New York, USA
			Galibert, P., et al., "Note Preliminaire Sur Le Traitement Des Angiomes Vertebraux Par Vertebroplastie Acrylique Percutane," Neurochirurgie, 33:166-168 (April 1987) France

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